

(3) Prohibited from public disclosure pursuant to 21 U.S.C. 331(j), 42 U.S.C. 263g(d), 42 U.S.C. 263i, or 18 U.S.C. 1905.

(4) Contained in a Privacy Act Record System where disclosure would constitute a clearly unwarranted invasion of personal privacy or is otherwise in violation of 5 U.S.C. 552a(b), as applied in part 21, subpart G, of this chapter (restrictions on disclosure in the privacy regulations).

(c) Discretionary disclosure of a record pursuant to this section shall invoke the requirement that the record shall be disclosed to any person who requests it pursuant to § 20.21, but shall not set a precedent for discretionary disclosure of any similar or related record and shall not obligate the Commissioner to exercise his discretion to disclose any other record that is exempt from disclosure.

#### **§ 20.83 Disclosure required by court order.**

(a) Records of the Food and Drug Administration which the Commissioner has determined are not available for public disclosure, either in the form of a regulation published or cross-referenced in this part or by a written determination pursuant to the procedure established in § 20.44, shall nevertheless be made available for public disclosure in compliance with a final court order requiring such disclosure.

(b) Where the Food and Drug Administration record ordered disclosed under paragraph (a) of this section is a record about an individual that is not available for public disclosure under § 20.63, the Food and Drug Administration shall attempt to notify the individual who is the subject of the record of the disclosure, by sending a notice to the individual's last known address.

(c) Paragraph (b) of this section shall not apply where the name or other personal identifying information is deleted prior to disclosure.

#### **§ 20.84 Disclosure to consultants, advisory committees, State and local government officials commissioned pursuant to 21 U.S.C. 372(a), and other special government employees.**

Data and information otherwise exempt from public disclosure may be disclosed to Food and Drug Adminis-

tration consultants, advisory committees, State and local government officials commissioned pursuant to 21 U.S.C. 372(a), and other special government employees for use only in their work with the Food and Drug Administration. Such persons are thereafter subject to the same restrictions with respect to the disclosure of such data and information as any other Food and Drug Administration employee.

#### **§ 20.85 Disclosure to other Federal government departments and agencies.**

Any Food and Drug Administration record otherwise exempt from public disclosure may be disclosed to other Federal government departments and agencies, except that trade secrets and confidential commercial or financial information prohibited from disclosure by 21 U.S.C. 331(j), 21 U.S.C. 360(j)(c), 42 U.S.C. 263g(d) and 42 U.S.C. 263i(e) may be released only as provided by those sections. Any disclosure under this section shall be pursuant to a written agreement that the record shall not be further disclosed by the other department or agency except with the written permission of the Food and Drug Administration.

[47 FR 10804, Mar. 12, 1982, as amended at 59 FR 536, Jan. 5, 1994]

#### **§ 20.86 Disclosure in administrative or court proceedings.**

Data and information otherwise exempt from public disclosure may be revealed in Food and Drug Administration administrative proceedings pursuant to parts 10, 12, 13, 14, 15, 17, and 19 of this chapter or court proceedings, where data or information are relevant. The Food and Drug Administration will take appropriate measures, or request that appropriate measures be taken, to reduce disclosure to the minimum necessary under the circumstances.

[42 FR 15616, Mar. 22, 1977, as amended at 60 FR 38633, July 27, 1995]

#### **§ 20.87 Disclosure to Congress.**

(a) All records of the Food and Drug Administration shall be disclosed to Congress upon an authorized request.

(b) An authorized request for Food and Drug Administration records by